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|---|-------------|----------------------|--------------------------------------|------------------|
| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.                  | CONFIRMATION NO. |
| 09/820,277  | 03/28/2001  | Jerry A. Waldorf     | SOFTECP.033A                         | 1700             |
| 7590<br>Mark D Kirkland<br>Fish & Richardson P.C.<br>500 Arguello Street<br>Suite 500<br>Redwood City, CA 94053 |             |                      | EXAMINER<br>MEINECKE DIAZ, SUSANNA M |                  |
|   |             |                      | ART UNIT<br>3694                     | PAPER NUMBER     |
| SHORTENED STATUTORY PERIOD OF RESPONSE  |             | MAIL DATE            | DELIVERY MODE                        |                  |
| 30 DAYS   |             | 03/12/2007           | PAPER                                |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

***Notice of Non-Responsive Reply***

1. The reply filed on February 8, 2007 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): Applicant previously elected Species I, yet (in Applicant's most recent reply) Applicant changes the original election to Species III. Once an election has been made, an Applicant cannot make a different election. Since Applicant has already elected Species I, claims directed to Species I must be presented. Applicant cancelled all of the originally pending claims that read on Species I and added new claims 52-95. As explained in the last notice of non-responsive reply, claims 52-95 do not address Species I. Species I has been defined as a combination of Embodiments A + B + E (as set forth in the restriction requirement mailed March 21, 2006); however, new claims 52-95 do not comprise limitations direction toward Embodiments A and E. While some of the new claims recite aspects of Embodiment B, most of the subject matter in new claims 52-95 incorporates Embodiment C. Therefore, newly submitted claims 52-95 are deemed to be directed to an invention that is independent or distinct from the invention originally claimed and elected. Accordingly, claims 52-95 are withdrawn from consideration as being directed to a non-elected invention, thereby leaving no claims within the scope of the elected subject matter to examine. It is respectfully recommended that Applicant reintroduce the subject matter of original claims 1-8 and 46 (which read on Species I) as new claims (since Applicant cancelled claims 1-8 and 46). Applicant also has the option of adding dependent claims that bring in the details of other embodiments (in addition to embodiments A, B, and E) provided that Applicant's original disclosure supports the

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integration of these other embodiments with the elected combination of embodiments A, B, and E. (Please note that a summary of these different embodiments is set forth in the restriction mailed on March 21, 2006.) See 37 CFR 1.142(b) and MPEP § 821.03.

Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (571) 272-6733. The examiner can normally be reached on Monday-Friday, 8 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Susanna M. Diaz  
Primary Examiner  
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March 5, 2007